

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

B.A. KELLY LAND CO., LLC

CIVIL ACTION NO. 5:18-cv-01243

VS.

JUDGE TERRY A. DOUGHTY

AETHON ENERGY OPERATING, LLC

MAG. JUDGE KAREN L. HAYES

MEMORANDUM RULING

This ruling addresses Defendant Aethon Energy Operating, LLC's ("Aethon") Emergency Motion for Preliminary Injunction and Permanent Injunction [Doc. No. 55], filed on September 22, 2020. B.A. Kelly Land Co., LLC ("B.A. Kelly") filed its Opposition [Doc. No. 58] and Aethon filed a Reply [Doc. No. 59]. For the reasons set forth herein, Aethon's motion is DENIED.

A. BACKGROUND

On September 21, 2018, B.A. Kelly filed a complaint against Aethon for damages resulting from Aethon's alleged breach of obligations as unit operator for unit wells located in Caddo and Bossier Parishes, Louisiana.

A Motion for Partial Summary Judgment [Doc. No. 16] filed by B.A. Kelly was denied on October 8, 2019 [Doc. No. 29]. In said ruling, this Court gave notice it intended to *sua sponte* enter summary judgment on this issue in favor of Aethon. After briefing, this Court entered partial summary judgment in favor of Aethon [Doc. No. 42].

On January 16, 2020 [Doc. No. 53], this Court granted Aethon's motion to designate the ruling as a Final Partial Judgment in accordance with Rule 54(b). A Notice of Appeal was filed by B.A. Kelly on February 10, 2020 [Doc. No. 54]. The appeal is pending.

On September 22, 2020, [Doc. No. 55], Aethon filed this Emergency Motion for Preliminary and Permanent Injunction, asking this Court to enjoin a state court proceeding, *B. A. Kelly Land Co., LLC v. Aethon United BR LP & Aethon Energy Operating, LLC*, No. 160,052, 26th Judicial District Court, Parish of Bossier. Aethon alleges B. A. Kelly is seeking to re-litigate claims and issues this Court has already resolved and asking for a preliminary and permanent injunction under the All Writs Act (28 U.S.C. 1651) and under the re-litigation exception to the Anti-Injunction Act (28 U.S.C. 2283).

B. LEGAL ANALYSIS

This Court does not believe it has jurisdiction to rule on Aethon's motion. This issue is pending appeal to the U.S. Fifth Circuit Court of Appeals. Filing of a notice of appeal confers jurisdiction on the Court of Appeals, and, divests the district court of those aspects of the case involved in the appeal. *Griggs v. Provident Consumer Disc. Co.*, 459 US 56 (1982). The issues set forth in Aethon's motion are those aspects of the case involved in the appeal.

Additionally, neither the All Writs Act, nor the exceptions to the Anti-Injunction Act provides an independent basis for the exercise of jurisdiction. *Clinton v. Goldsmith*, 526 U.S. 529 (1999); and *Matter of Mooney Aircraft, Inc.*, 730 F.2d 367 (5th Cir. 1984).

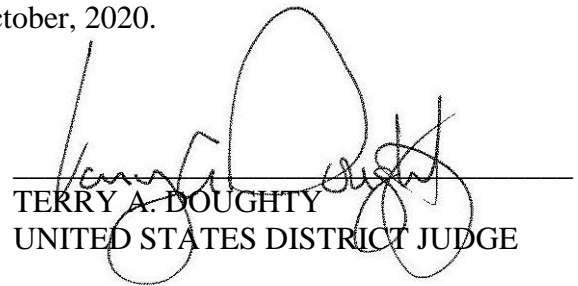
Even if this Court had jurisdiction, it would deny Aethon's request. Any doubts as to the propriety of a federal injunction against state court proceedings should be resolved in favor of permitting state court to proceed. *Smith v. Bayer Corp.*, 564 U.S. 299 (2011). The Anti-Injunction Act's core message is one of respect for state courts. *Atlantic Coast Line R. Co. v. Locomotive Engineers*, 398 U.S. 281 (1970).

There is also no necessity for an injunction here. The federal decision is on appeal and the state court decision is pending in state district court. The state proceeding involves an additional party which B.A. Kelly was not allowed to add in the federal proceeding. The issues, though very similar, are not exactly the same.

C. CONCLUSION

For the reasons set forth herein, Aethon's Emergency Motion for Preliminary Injunction and Permanent Injunction [Doc. No. 55] is **DENIED**.

MONROE, LOUISIANA, this 5th day of October, 2020.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE